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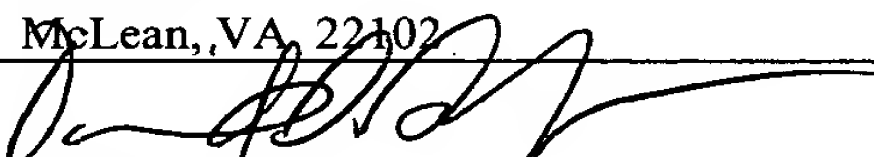
AF 3612

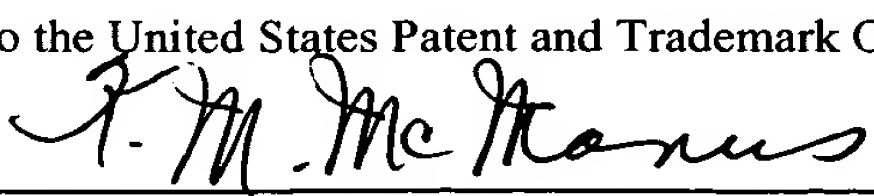
61 O I P E JCA2 MAR 08 2004 PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application Number	09/813,353
		Filing Date	March 21, 2001
		First Named Inventor	Manfred PFALZGRAF
		Group Art Unit	3612
		Examiner Name	D. Pedder
Total Number of Pages in This Submission	9	Attorney Docket Number	740123-351

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Request for Reconsideration <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Declaration and Power of Attorney <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition Under 37 CFR § 1.181(a)(1) <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Application Data Sheet <input type="checkbox"/> Request for Corrected Filing Receipt with Enclosures <input type="checkbox"/> A self-addressed prepaid postcard for acknowledging receipt <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Declaration of Bernd Schleicher and Figs. 4-6
Remarks <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 19-2380 (740123-351) for the above identified docket number.		

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	<u>David S. Safran, Reg. No. 27,997</u> Nixon Peabody LLP 8180 Greensboro Drive Suite 800 McLean, VA 22102
Signature	
Date	March 4, 2004

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]	
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<u>March 4, 2004</u> Date	 Signature <u>K.M. McManus</u> Typed or printed name



Attorney's Docket No. 740123-351

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
	:	Art Unit: 3612
Manfred PFALZGRAF)	
	:	
Application No.: 09/813,353)	Examiner: D. Pedder
	:	
Filed: March 21, 2001)	
	:	
For: MOTOR VEHICLE ROOF WITH)	
TWO COVERS	:	

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K.M. McManus

PETITION UNDER 37 CFR § 1.181(a)(1)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

In accordance with the provisions of 37 CFR § 1.181(a)(1), applicant hereby petitions the Director to require the Examiner to withdraw his objection to the drawings of the above-captioned patent application.

Facts

The Examiner has objected to the drawings under 37 CFR § 1.183 for failing to show every feature of the claims in his Office Action of January 4, 2002. With a response filed by Certificate of Mailing on June 4, 2002, applicant filed a new set of drawings and provided reasons why the drawing submitted fulfilled the requirements of 37 CFR § 1.183. In a final Office Action mailed July 11, 2002, the Examiner indicated that the new drawings were not approved and reiterated his objection. With a response filed October 11, 2002 by Certificate of Mailing, two new sheets of

drawings were filed and an Advisory Action issued by the Examiner as a result of which a Request for Continued Examination was filed on November 12, 2002, with a petition to suspend action and on February 12, 2003, an Amendment was filed with reasons why the drawing filed with applicant's October 11, 2002, response should be accepted. On March 6, 2003, another Office Action was issued in which the Examiner maintained his objection to the drawings, and by Certificate of Mailing, on August 6, 2003, an Amendment was filed seeking reconsideration of the Examiner's position relative to the inadequacies of the drawings under 37 CFR § 1.83. On September 11, 2003, the Examiner issued a further Office Action in which he again objected to the drawings under 37 CFR § 1.83 and once again stated that the proposed new drawings were not approved. Having repeatedly sought withdrawal of the Examiner's objection to the drawings, applicant now petitions the Director to reverse the Examiner's decision, or in the alternative to waive § 1.83, and approve the drawings submitted.

Grounds Upon Which Granting of the Petition is Sought

It is applicants' position that the schematic depictions of the swinging mechanisms for raising and lowering the covers added to the Figures 2A-2D and 3A-3C in the Submission of New Drawings of October 12, 2002 (a copy of which is attached) are consistent with the original disclosure and adequately illustrate the claimed subject matter. As pointed out to the Examiner, the specific means to produce the claimed movements is not the invention as those skilled in the art will know numerous techniques for doing so, and by way of example, the Examiner was been presented with U.S. Patent No. 4,911,496 (see Figures 2-5), U.S. Patent No. 4,911,497 (see Figures 9-12, 18-22), as well as French Patent No. 2,730,958 (see Figures 2-4), each of which disclose various specific means of cooperation between lateral guides of a roof and cam surfaces to move a front or rear edge of a roof cover out of the plane of roof and move the cover longitudinally to an open position along the guides. Furthermore, a Declaration of Bernd Schleicher (copy attached, hereafter the "Schleicher Declaration") has been submitted which provides factual evidence that one of ordinary skill would be able to adapt known mechanisms to produce the claimed movements.

The submitted Figures 2C and 2D clearly illustrate (using arrows) the cooperation of the rear roof cover and the lateral guides G set forth in claim 7. That is, Figure 2C illustrates that the rear edge 19 of the rear cover 15 moves at the roof plane as movement along the guide G continues. Thereafter, Figure 2D illustrates that after substantial movement along the guide G, the rear edge 19 of the rear cover 15 must be moved out of the plane of the roof (see arrow 27) to avoid contact with the rear edge 18 of the front cover 14. The specific means for effecting such movement can be via any well known means for moving an edge of a roof cover out of the plane of a roof while also enabling longitudinal movement of the cover, such as shown by with U.S. Patent No. 4,911,497 (see Figures 9-11) or as French Patent No. 2,730,958 (see Figures 2-3) and as indicated in the Schleicher Declaration. This technique of illustrating the functions or means specifically claimed is sanctioned by USPTO practice, see MPEP 608.02(d) - Complete Illustration in Drawings

37 CFR 1.83 Content of drawing.

(a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the **drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box)**. Emphasis added

Further, the Applicants do not understand Examiner's insistence on the requirement to illustrate specific means for achieving the claimed movement since the black box and line illustrations of means "G" and "S" is consistent with USPTO practice (see above) and is consistent with this Examiner's own determination that such a showing need not be made in many other applications of related technology examined by him. For example, in U.S. Applications 09/803,435 and 09/803,371, each examined by the current Examiner and also assigned to the same assignee as the instant application, which have been issued as U.S. Patent Nos. 6,457,770 (column 3, line 10, to column 4, line 28; Figures 1-2H; claims 1 and 8) and 6,565,149 (column 3, line 10, to column 4, line 20; Figures 2A-2J; claim 1), respectively, the current Examiner correctly determined that each patent, in setting forth in general terms only the numerous upward, downward and lateral movements of the front edge of either or both a front cover and a rear cover, did not require any illustration or discussion of

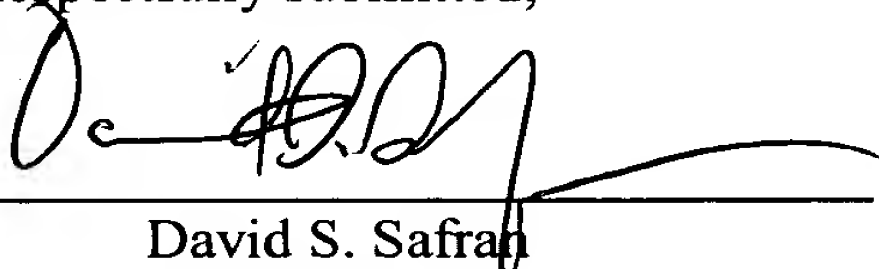
specific means for effecting the upward, downward or longitudinal movement of the claimed features.

The Applicant continues to assert, for the reasons above, that a specific illustration of a means for effecting the claimed movement of the front or rear cover set forth in claims 1-9 is not required or necessary to the understanding of the claimed invention and the illustrations of the claimed movements set forth in the Submission of New Drawings of October 11, 2002 fully comply with the accepted USPTO practice prescribed by 37 C.F.R. 1.83(a).

Conclusion

For the above stated reasons, the Director is requested to grant this petition seeking withdrawal of objection to the drawings under 37 C.F.R. 1.83(a). However, should the drawings not be found to be in full compliance with 37 C.F.R. 1.83(a), in the alternative, the Director is requested to waive § 1.83(a) to the extent necessary for the drawings submitted to be approved.

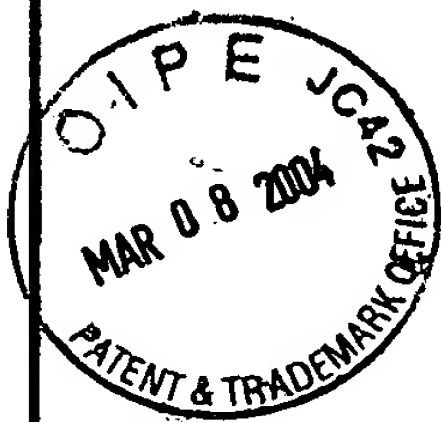
Respectfully submitted,



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Attorney's Docket No. 740123-351

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In re Patent Application of)	
	:	Art Unit: 3612
Manfred PFALZGRAF)	
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Application No.: 09/813,353)	Examiner: D. Pedder
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Filed: March 21, 2001)	
	:	
For: MOTOR VEHICLE ROOF WITH)	
TWO COVERS	:	

Declaration of Bernd Schleicher

I, Bernd Schleicher, hereby declare that:

As Manager R & D Roof Systems, being employed by "Webasto" since 1982 and working in the field of automobile engineering, I have gathered vast experience over the years in designing sliding vehicle roofs.

During my work in this field, I made inventions resulting in a number of patents, see, for example, U.S. Patent 4,699,421 relating to a sliding and lifting roof for vehicles, U.S. Patent 6,481,787 B1 relating to a sliding motor vehicle roof, U.S. Patent 6,457,770 B1 relating to a vehicle roof with adjustable covers and U.S. Patent 6,565,149 B2 relating to a vehicle roof with displaceable covers.

I have reviewed the specification and drawings of the above-identified U.S. Patent Application of Manfred PFALZGRAF (hereafter the "PFALZGRAF Application"). With my knowledge and experience, I am able to make and use the invention of the PFALZGRAF Application. The movement of the rear cover 15, for example, can be accomplished by means of a mechanism which I have designed using known elements based upon reading the application, this mechanism being shown schematically in the Figures 4, 5 and 6 of the enclosed figure sheet.

In order to move the rear edge 18 of the rear cover 15 (see claim 2 and claim 7 of the PFALZGRAF Application), a guide track follower, such as a roller or a pin 30 is carried by a support 31 mounted close to the rear edge 18 of the rear cover 15 and is movably guided along a lateral guide rail 32. This guide rail 32 has a main section 33 where the guide rail 32 follows the roof contour over most of its length and a front

section 34 where the pin 30 is moved downwards and forward on a lower level according to the representation of the arrow 27 (see Fig. 2D of the application).

For carrying and moving the front edge 17 of the rear cover 15 (see the movements of the cover according to claim 1), the mechanism has a swinging or lifting lever 35 which is supported by way of a pivot bearing 36 which, for example, is formed by a pin 36 which is arranged on an arm 46 of a slider 47 which is slidably mounted in a longitudinal guide rail 37 provided on a lateral roof frame. The lifting lever 35 has a front leg 38 and a back leg 39. The back leg 39 is hinged at its rear end to a support 40 mounted close to the front edge 17 of the rear cover 15. The front leg 38 is guided on its front end along a control guide rail 41 by way of a pin 42 (alternatively, a slider is movably guided along the control guide rail 39 and the front leg 36 is connected with the slider by way of a pivot bearing). The control guide rail 41 has a first control segment 43 which rises in a forward direction and passes into a main segment 44 which runs parallel to the longitudinal guide rail 37.

The slider 47, and thus the pin 36 of the lifting lever 35, is connected with a drive cable 45.

In the closed position of the vehicle roof the front edge 17 of the rear cover 15 (see Fig. 2A and new Fig. 5) is held in its position by the lifting lever 35 which has a swinging position such that the pin 42 of the front leg 38 is positioned in the lower end region of the control guide rail 41. When the drive cable 45 moves the pin 36 and thus the lifting lever 35 in a forward direction along guide rail 37, simultaneously the pin 42 is moved upwards along the first control segment 43 resulting in a pivoting movement of the lifting lever 35 until the pin 42 reaches the main segment 44 (Fig. 5 to Fig. 6). During a further forward movement of pin 36 and the pin 42 along the main segment 44 of the guide rail 41, the lifting lever 35 is kept in its pivoting position with the back leg 39 lowered. Simultaneously, the pin 30 of the rear edge 18 of the rear cover 15 moves along the lateral guide rail 32.

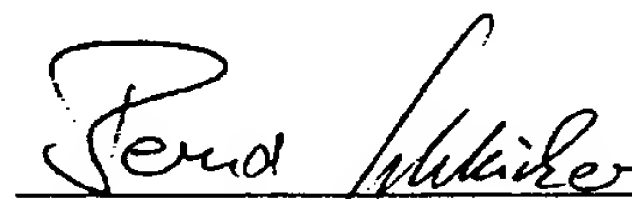
The arrangement for moving the front edge 17 is designed such that the front edge 17 moves downward and then forward as described in the application. In order to close the vehicle roof the drive cable 45 moves the pin 36 in rearward direction.

It is apparent that the mechanism as described can be easily implemented and provided on the vehicle roof in order to be used for moving the front cover 14 as

described and claimed in the application without undue experimentation using known techniques based on the teachings provided by the PFALZGRAF Application.

I understand that it is the Examiner's position that the differences in movements between the movement mechanism of U.S. Patent 4,911,497; U.S. Patent 4,911,497; and French Patent 2,730,958 and the invention of the PFALZGRAF Application are such that the picking and choose of aspects from them to produce a mechanism capable of performing the movements of the PFALZGRAF Application prevents them from evidencing that necessary movement mechanism could be made based on what is taught in the PFALZGRAF Application. However, such a conclusion ignores the fact that those working in the motor vehicle roof art to which the PFALZGRAF Application is directed routinely adapt movement mechanisms that perform one type of movement to produce another type of movement. Thus, given the structure shown in the PFALZGRAF Application and the type of movement to be provided, it would be nothing more than a routine matter to adapt known techniques to achieve the described movements, as my ability to quickly produce the arrangement shown in the appended figures evidences.

All statements made herein of my knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.


Bernd Schleicher

March 20104
Webasto AG
Kraillinger Straße 5 · 82131 Stockdorf

Encl.: Figure sheet with Figs. 4, 5 and 6

